**NAFR**

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**MCRC No. 3418 of 2015**

1. Chandulal Chelak, aged about 35 years (not mentioned in the bail rejection order), son of Santlal Chelak,

2. Anil Chelak, aged about 21 years, (not mentioned in the bail rejection order), son of Santlal Chelak,

   Both are residents of Village Arasi, P.S. Bori, Dhamdha, Revenue and Civil District Durg (C.G.)

**---- Applicants**

**Versus**

- State Of Chhattisgarh Through: Police Station Bori, Revenue and Civil District – Durg (C.G.)

**---- Non-applicant**

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For Applicant: Mr. Shrawan Agrawal, Advocate.
For Respondent/State: Mr. Aditya Sharma, Panel Lawyer

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**Hon'ble Shri Justice Sanjay K. Agrawal**

**Order On Board**

**28/07/2015**

Heard.

(1) The accused/applicants have moved this bail application under Section 439 of the Code of Criminal Procedure for releasing them on regular bail during trial in connection with Crime No. 36/2015 registered at Police Station: Bori, Revenue & Civil District - Durg for the offences punishable under Section

34(2) of the Chhattisgarh Excise Act, 1915.

(2) Case of the prosecution, in brief, is that 17.280 bulk liters of illicit liquor was seized by the police from the present applicants.

(3) Learned counsel for the applicants submits that the applicants have falsely been implicated in the case, and therefore, the applicants may be released on bail.

(4) On the other hand, learned counsel for the State opposes the bail application.

(5) I have heard the counsel appearing for the parties and perused the case diary.

(6) Taking into consideration the condition incorporated in Section 59-A(ii) of the C.G. Excise Act, 1915, and bearing in mind the principles of law laid down in **Banti Singh v. State of Chhattisgarh** (M.Cr.C. No.6846 of 2014, decided on 05.01.2015), if the facts of present case are examined, it is apparent that only 17.280 bulk liters of illicit liquor has been seized from them which is more than prescribed limit of 5 bulk liters, but looking to the fact that it is first offence of the applicants and they are in custody from 17.04.2015, case is triable by the Judicial Magistrate First Class, trial is likely to take some more time and further taking into account the nature and gravity of offence and plea raised by the applicants that they have falsely been implicated in case, I am of the opinion that present is the fit

case, in which, the applicants should be enlarged on regular bail.

(7) Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed. It is directed that on furnishing a personal bond in the sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned Court for their appearance as and when directed, the applicants shall be released on bail, subject to following conditions:

- That, the applicants shall furnish a specific undertaking that while on bail, they will not commit any excise offence, otherwise bail granted to them shall be liable to be cancelled and shall co-operate the prosecution during trial.
- That, the accused/applicants shall make themselves available for interrogation before the concerned Investigating Officer as and when required and the accused/applicants shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to any police officer.
- That, the accused/applicants shall not act, in any manner, which will be prejudicial to fair and expeditious trial.

Certified copy, as per rules.

Sd/-
(Sanjay K. Agrawal)
Judge

D/-